STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

Commonwealth Edison Company	:	
	:	Docket 10-0467
Proposed general increase in electric	:	
rates. (Tariffs filed on June 30, 2010)	:	

THE CITY OF CHICAGO'S
BRIEF ON EXCEPTIONS

THE CITY OF CHICAGO

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DOCKET NO. 10-0467
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Pursuant to Section 200.830 of the Rules of Practice of the Illinois Commerce Commission (Commission or ICC) and the briefing schedule established by the Administrative Law Judges, the City of Chicago (City), by its attorney, Mara S. Georges, Corporation Counsel, submits its Brief on Exceptions in this proceeding. The City's Brief on Exceptions responds to the Administrative Law Judges' Proposed Order (the Proposed Order) dated April 1, 2011.

INTRODUCTION

The City thanks the Administrative Law Judges (the ALJs) for their hard work, fairness, and good judgment exhibited throughout this proceeding. The City's testimony and briefs in this case focused on relatively few issues. As to those issues, with one glaring exception, the ALJs' Proposed Order is well-written, well-reason, and reaches what the City considers to be the appropriate conclusions. As a result, the City's Brief on Exceptions is relatively short, addressing only two issues.

First, the City takes exception to the Proposed Order's conclusion adopting a modified version of Commonwealth Edison Company's (ComEd) proposed straight-fixed variable (SFV) rate design. The Proposed Order's conclusion represents a radical change from the way in which the Commission has set delivery service rates since the transition to competition began following the 1997 rewrite of the Public Utilities Act (the Act). Although the Proposed Order claims that its decision is based on cost causation principles (Proposed Order at 218), that assertion is just plain wrong. If the rationale for the Proposed Order's decision is approved, residential customers as different as mansions in Lake Forest and bungalows on the Southwest side of Chicago will pay almost the same for delivery services, regardless of the amount of electricity they use and regardless of the costs they impose on ComEd's system. That clearly has nothing to do with cost causation. Moreover, the reasons the Proposed Order cites to support its conclusion do not hold up to scrutiny and cannot sustain its decision. The Proposed Order's conclusion is unsupportable and should be rejected.

Second, with one exception, the Proposed Order reaches the correct conclusions regarding the rates for dusk-to-dawn street lighting customers. In particular, in addressing the dispute between the City and ComEd regarding the cost of wire used to serve City alley lights, the Proposed Order concludes that the cost of wire should be \$0.00 because it is not logical to assume that ComEd provides wire that the City uses to connect its street lights to ComEd's system. *Id*. at 265. While the City understands the logic of the Proposed Order's conclusion, the conclusion does not comport with the record. ComEd Ex. 16.6 shows that the City and ComEd each provide wire to a junction box where City employees and contractors make the connection between the two systems. The Proposed Order should be modified to include City witness Edward C. Bodmer's recommended cost of wire to be used in calculating rates for the dusk-to-dawn street lighting class.

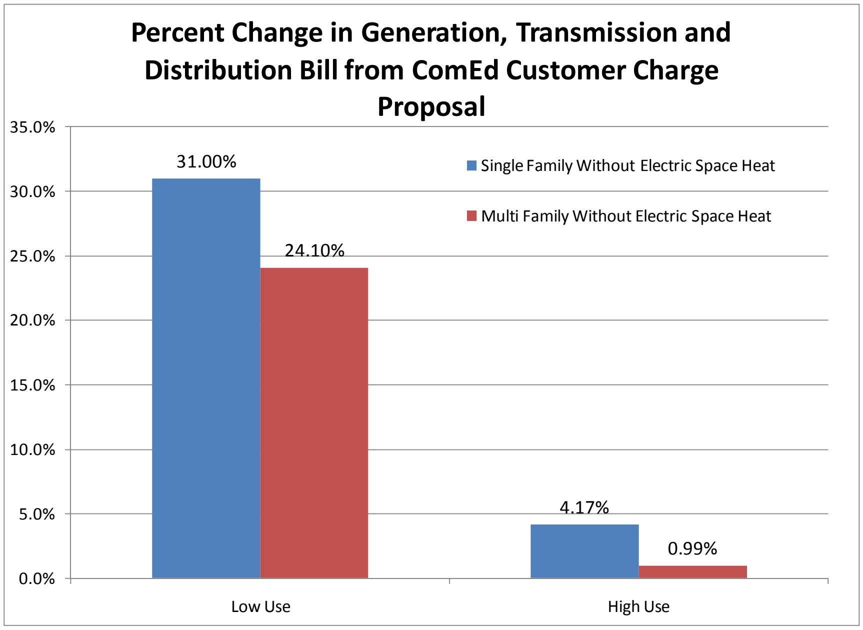
EXCEPTION # 1 – THE PROPOSED ORDER'S CONCLUSION APPROVING A MODIFIED VERSION OF COMED'S SFV PROPOSAL SHOULD BE REJECTED. (SECTION VIII. C. 1 OF THE COMMON BRIEF OUTLINE)

Putting aside the technical jargon as to whether ComEd's rate design is based on short-run marginal costs or is an attempt to revive the discredited idea of Ramsey pricing, it is important to focus on what is at issue here. For the purposes of this brief, the City assumes that most of ComEd's costs to serve residential customers are fixed. With that assumption, the Commission's task is to decide how to allocate those costs based on cost causation principles. That is, the Commission must allocate ComEd's fixed costs to those residential customers who cause ComEd to incur them. The Proposed Order asserts that its acceptance of a modified version of ComEd's SFV proposal accomplishes that goal – it traces costs to cost causers. *Id*. at 218. The record shows that that is not the case.

The Proposed Order, by adopting a modified version of ComEd's SFV proposal, essentially concludes that all residential customers impose essentially the same costs on the system. That conclusion defies reality. City witness Bodmer and Staff witness Christopher L. Boggs testified that it is clear that different residential customers place different stresses and impose different costs on ComEd's system. Staff Ex. 13.0 at 25, LL 492-505. For example, it is obvious that a single-family bungalow in Chicago that uses 600 kWhs per month and a very large home in Lake Forest that uses 6,000 kWhs per month impose very different costs on ComEd's system. Bungalows in Chicago are located practically on top of each other and are fed by overhead service drops from adjacent alleys. Large homes in Lake Forest and many other parts of ComEd's service area are separated by much greater distances and are fed by underground lines. Yet, because the SFV proposal would put almost all costs into the customer charge, these two very different customers would pay bills that are far more similar than their different stresses on the system would dictate. Mr. Boggs concluded that such a result "would be contrary to cost causation principles." *Id*. at LL 505-06.

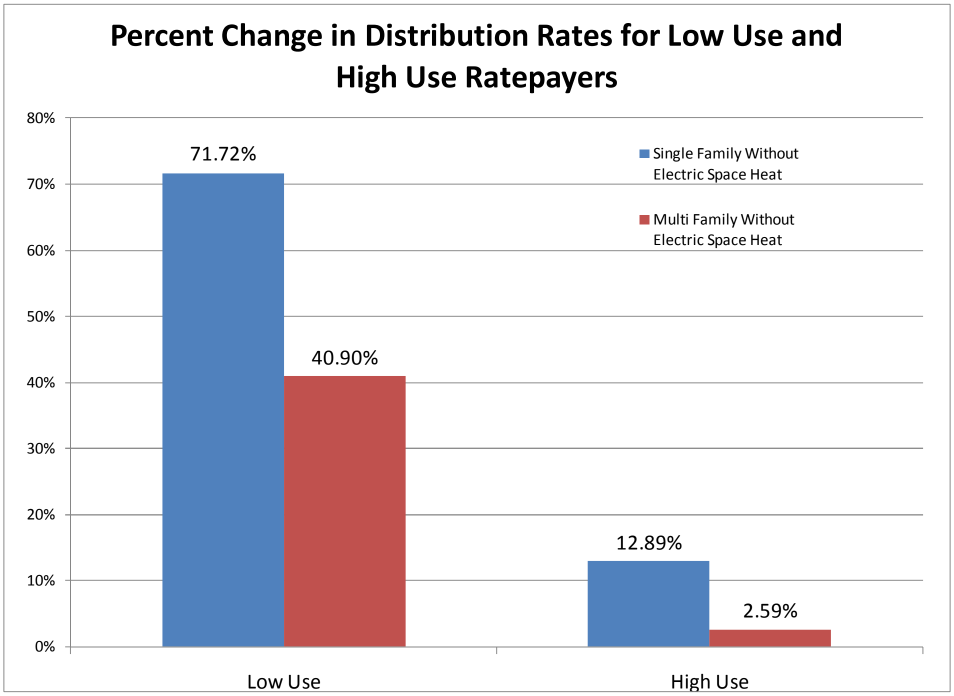
Mr. Bodmer made a similar observation, stating "I do not think anybody believes that a family who lives in a Lake Forest mansion uses the same amount of electricity as low income family who live in a small apartment." City Ex. 1.0 at 36, LL 700-02. Mr. Bodmer also pointed out that if a SFV rate design were applied to business customers, then like the bungalow in Chicago and the mansion in Lake Forest, businesses would pay the same customer charge, regardless of their size. Thus, a corner convenience store would pay the same customer charge as an extremely large electricity user such as a steel manufacturer. City Ex. 1.0 at 21, LL 389-92. Such a result is nonsensical, yet that is what ComEd's SFV proposal would require. Business customers, rightfully so, would be up in arms about such a proposal. But that is exactly the same result that ComEd's SFV proposal would impose on residential customers. While the Proposed Order's modified version of the SFV rate design ameliorates those gross inequities a bit, the results would still be unfair and contrary to cost causation principles.

Moreover, Mr. Bodmer showed that low-use residential customers would bear the brunt of the effects of ComEd's SFV proposal. He included in his Direct Testimony a graph showing the impacts of the SFV proposal on low-use and high-use residential customers. *Id*. at 10, LL 187-92. The graph is taken from Tables D8 and D9 that ComEd witness Lawrence S. Alongi presented in his Direct Testimony. Mr. Bodmer's graph is shown below.



Id. at LL 19-92.

Mr. Bodmer noted that while his graph (and Mr. Alongi's tables) show the dramatic impact on low-use customers, the effect is actually worse because Mr. Alongi's tables showed the impact of the SFV proposal on total customer bills. *Id*. at 9, LL 165-67. That is, Mr. Alongi's tables include the cost of generation and transmission as well as the cost of distribution. Mr. Bodmer testified that doing so skews the results shown in Mr. Alongi's tables. *Id*. at LL 171-77. To alleviate this distorting efect, Mr. Bodmer also prepared a graph showing the impact of ComEd's SFV proposal on distribution rates; that is, with supply and transmission costs removed. That table is replicated below.



Id. at 11, LL 201-03.

The two graphs in Mr. Bodmer's testimony show the dramatic and disparate impact ComEd's SFV proposal would have on low-use customers. The first graph shows that low-use single-family customers would see a 31% increase in their total bills if ComEd's SFV proposal were adopted. The same graph shows that low-use multi-family customers would see a 24.1% increase in their total bills. The corresponding increases for high-use singe-family and high-use multi-family customers are only 4.17% and 0.99%, respectively.

The second graph demonstrates that the impact on the distribution services portion of low-use customer bills would be even more dramatic. Low-use single-family customers would suffer a whoppi ng ***71.72%*** increase in their distribution charges. Low-use multi-family customers would fare marginally better, incurring ***only a 40.90%*** increase. In contrast, the increases for high-use singe-family and high-use multi-family customers are 12.89% and 2.59%. Mr. Bodmer's testimony and related tables on this point was unrebutted.

AG witness Scott J. Rubin presented similar testimony, showing that ComEd's proposed SFV rate design would fall heaviest on low-use customers. AG Ex. 6.0 at 24-25, LL 484-502. Mr. Rubin concluded that for this reason, and others, ComEd's proposal is not equitable. Similarly, Staff witness Christopher L. Boggs testified that the SFV rate design would shift costs from large-use customers to small-use customers. Staff Ex. 13.0 at 24-25, LL 487-506. Mr. Rubin's and Mr. Boggs's testimony on this point was also unrebutted.

Not surprisingly, if adopted, ComEd's SFV proposal would fall heavily on Chicago residents. Mr. Bodmer testified that he presented information in ComEd's last rate case – Docket 07-0566 – that electricity use in Chicago is significantly less than use in non-Chicago areas. In particular, Mr. Bodmer stated that in Docket 07-0566, "I showed that in 2006, the median non-space use per resident per month was 346 kWh per month inside the City. By contrast, the median suburban consumer used 553 kWh per month – 60% above the City level. I am not aware of any evidence that these usage patterns have changed." City Ex. 1.0 at 12, LL 220-23. Due to the energy usage difference between Chicago residents and non-Chicago residents, Mr. Bodmer demonstrated that there would be a $50 million wealth transfer from Chicago residents to non-Chicago residents. *Id*. at 12-13, LL 230-32. Mr. Bodmer's table showing that wealth transfer is below.

	Proposed	Current	Increase	Percent Increase	Total with Equal Allocation	Transfer
City Revenues - SF	187,412,428	140,163,374	47,249,054	33.7%	171,919,701	15,492,727
City Revenues - MF	118,992,424	65,415,416	53,577,008	81.9%	80,236,358	38,756,065
City Revenues SF Space	728,557	738,427	-9,871	-1.3%	905,730	-177,174
City Revenues MF Space	12,580,033	13,823,607	-1,243,574	-9.0%	16,955,574	-4,375,540
Total	319,713,442	220,140,825	99,572,617	45.2%	270,017,364	49,696,078
Out Revenues - SF	799,991,768	668,779,441	131,212,327	19.6%	820,302,465	-20,310,697
Out Revenues - MF	104,548,419	94,608,457	9,939,962	10.5%	116,043,565	-11,495,146
Out Revenues SF Space	18,403,856	19,819,553	-1,415,697	-7.1%	24,310,001	-5,906,144
Out Revenues MF Space	34,011,001	37,499,060	-3,488,059	-9.3%	45,995,092	-11,984,091
Total	956,955,045	820,706,512	136,248,532	16.6%	1,006,651,123	-49,696,078
Grand Total	1,276,668,487	1,040,847,337	235,821,149	22.7%	1,276,668,487	0

Id. at 13, LL 238-40.

Although the Proposed Order's adoption of a modified version of ComEd's SFV proposal would alleviate these impacts to some extent, the overall effect of a SFV rate design remains the same – a transfer of costs from large users to small users. This is patently unfair and inequitable. It is also inconsistent with the Commission's finding in ComEd's last rate case, Docket 07-0566. There, the Commission agreed with the City's argument that "imposing costs on customers who use less energy is, at best, inconsistent with the General Assembly's mandate that reducing energy use is a vital policy objective of the State." Docket 07-0566, Order at 211.

The Proposed Order states that "the record does not demonstrate that low-income customers are necessarily low-usage customers, or vice versa. Further, there are other means in place that more precisely target the policy issue that the AG and City seeks [*sic*] to address here." Proposed Order at 217. For purposes of this brief, the City will not argue whether there is a correlation between low-use customers and low-income customers. There is no doubt that there are low-income customers that use large amounts of electricity. There is also no doubt that there are high-income customers who use relatively small amounts of electricity. However, it cannot be seriously argued that there is some connection between low-income customers and relatively lower use of electricity.

The Proposed Order's assertion that there are "other means in place that more precisely target the policy issue that the AG and City seeks [*sic*] to address here" (Proposed Order at 217) is belied by Mr. Bodmer's analysis. Mr. Bodmer demonstrated that the impacts of the $10 million annual contribution ComEd proposes to make as part of its alternative regulation proposal in Docket 10-0527 would be more than offset by the impact of ComEd's SFV proposal on low-usage customers in this case. According to ComEd, the impact of the utility's low-income program contributions would assist about 300,000 customers per year. ComEd Ex. 18.0 at 13, LL 239-41. Mr. Bodmer estimated that the dollar impact per customer of ComEd's proposed contributions would thus be approximately $33 per year. City Ex. 1.0 at 38, LL 740-41. Assuming that there is at least some overlap between low-use and low-income customers – a pretty safe assumption -- Mr. Bodmer prepared a table showing that the benefits of ComEd's proposed low-income program contributions would be outweighed by the impact of ComEd's SFV proposal. Mr. Bodmer's table is replicated below.

Low Income Funding per Customer versus Increase in Customer Charge	
Low Income Funding	$10,000,000
Funding After Administrative Costs	$9,000,000
Ratepayers Affected	300,000
Benefit per Ratepayer	**$30.00**
Increase in Monthly Customer Charge - Single Family	$20.10
Annual Increase in Bills from Customer Charge	**$241.20**
Increase in Monthly Customer Charge - Multi Family	$8.12
Annual Increase in Bills from Customer Charge	**$97.44**

Id. at 39, LL 750-51.

Using ComEd's SFV proposal to set residential rates – even the modified version proposed by the Proposed Order – would be a dramatic departure from how the Commission has set residential rates since the beginning of the transition to competition occasioned by the 1997 rewrite of the Public Utilities Act. Since that time, the Commission has used embedded costs to set residential rates. Mr. Bodmer testified that ComEd's SFV proposal ignores the Commission's consistent use of embedded costs and "is tantamount to using short-run marginal costs in setting rates and then imposing the difference between marginal costs and average cost on the lowest use ratepayers." *Id*. at 4, LL 73-75. Mr. Bodmer added that ComEd's preferred rate design "is a very old idea" that is "attractive to utility companies" because it "reduce[es] cash flow volatility" and "cut[s] incentives to conserve electricity," thereby promoting demand growth. *Id*. at 3-4, LL 58-67.

Attorney General (AG) witness Scott J. Rubin made a similar point. Mr. Rubin stated

> To the best of my knowledge, there is no support among reputable public utility economists or among public utility commissions for setting utility rates based on short-run marginal costs. This notion was floated by a few economists during the 1940s and 1950s and quickly was discredited by those who understood the public utility industry.

AG Ex. 6.0 at 16, LL 313-17.

The Proposed Order insists that the SFV proposal does not set rates based on short-run marginal costs. Proposed Order at 217-18. Merely saying it is so does not make it true. The Proposed Order's unsupported claim is reminiscent of ComEd's assertion that the SFV proposal is not an effort to set rates based on short-run marginal costs. ComEd offered no credible evidence to the contrary, instead steadfastly denying that its rate design proposal was not based on short-run marginal costs. Like ComEd, the Proposed Order's claim is not supported by any credible evidence. Merely stating that the SFV proposal is not based on short-run marginal costs does not make it so.

The Proposed Order also claims that the SFV rate design does not reduce "the incentive to conserve electricity," reasoning that the distribution services portion of customers' bills represents a smaller portion of bills than does the commodity part. Proposed Order at 217. While it is true that the rule-of-thumb for analyzing customers' bills is that the delivery services portion represents one-third of the bill and the commodity portion makes up the other two-thirds, that does not mean that increasing the customer charge or fixed portion of customers' bills will not deter investments in energy efficiency measures. Indeed, the evidence is overwhelmingly to the contrary.

Several witnesses testified that the SFV proposal would discourage customers from investing in energy efficiency measures. *See, e.g.*, Staff Ex. 13.0 at 18, LL 345-46; City Ex. 1.0 at 35-36, LL 682-91; AG-CUB Ex. 6.0 at 41, LL 838-41; NRDC Ex. 2.0 at

10-11, LL 205-13. The reason for this is straightforward. As Staff witness Christopher L. Boggs explained

> When charges which are based on usage comprise a larger portion of a customer's monthly bill, it increases the incentive for a customer to keep his or her electricity costs down by curtailing usage. If a larger portion of a customer's monthly bill is fixed, this limits the ability of a customer to reduce his or her bill by using less.

Staff Ex. 13.0 at 18, LL 346-50. Mr. Boggs's statement is true whether the SFV proposal would increase the customer charge portion of customers' bills to 50% -- as recommended by the Proposed Order – or 60-80% as recommended by ComEd. The higher the customer charge portion of the bill – the portion that is fixed and cannot be avoided through use of energy efficiency measures or conservation – the less incentive customers have to invest in such measures. That is axiomatic; the difference is one of degree, not kind.

Because the Proposed Order's adoption of a modified version of the SFV rate design would deter energy efficiency investments, it contravenes the General Assembly's unequivocal embrace and promotion of energy efficiency and demand response resources. As the Commission knows, the General Assembly has enacted legislation establishing energy efficiency portfolio standards (EEPS) for both electric and gas utilities. *See*, 220 ILCS 5/8-103; 5/8-104. In creating EEPS's for electric utilities, the General Assembly made clear that "It is the policy of the State that electric utilities are required to use cost-effective energy efficiency and demand-response measures to reduce delivery load." 220 ILCS 5/8-103(a); *see also*, 220 ILCS 5/8-104(a) ("It is the policy of the State that natural gas utilities and the Department of Commerce and Economic

Opportunity are required to use cost-effective energy efficiency measures to reduce direct and indirect costs to consumers.”). The General Assembly further stated that “Requiring investment in cost-effective energy efficiency and demand-response measures will reduce direct and indirect costs to consumers by decreasing environmental impacts and by avoiding or delaying the need for new generation, transmission, and distribution infrastructure.” 220 ILCS 5/8-103(a).

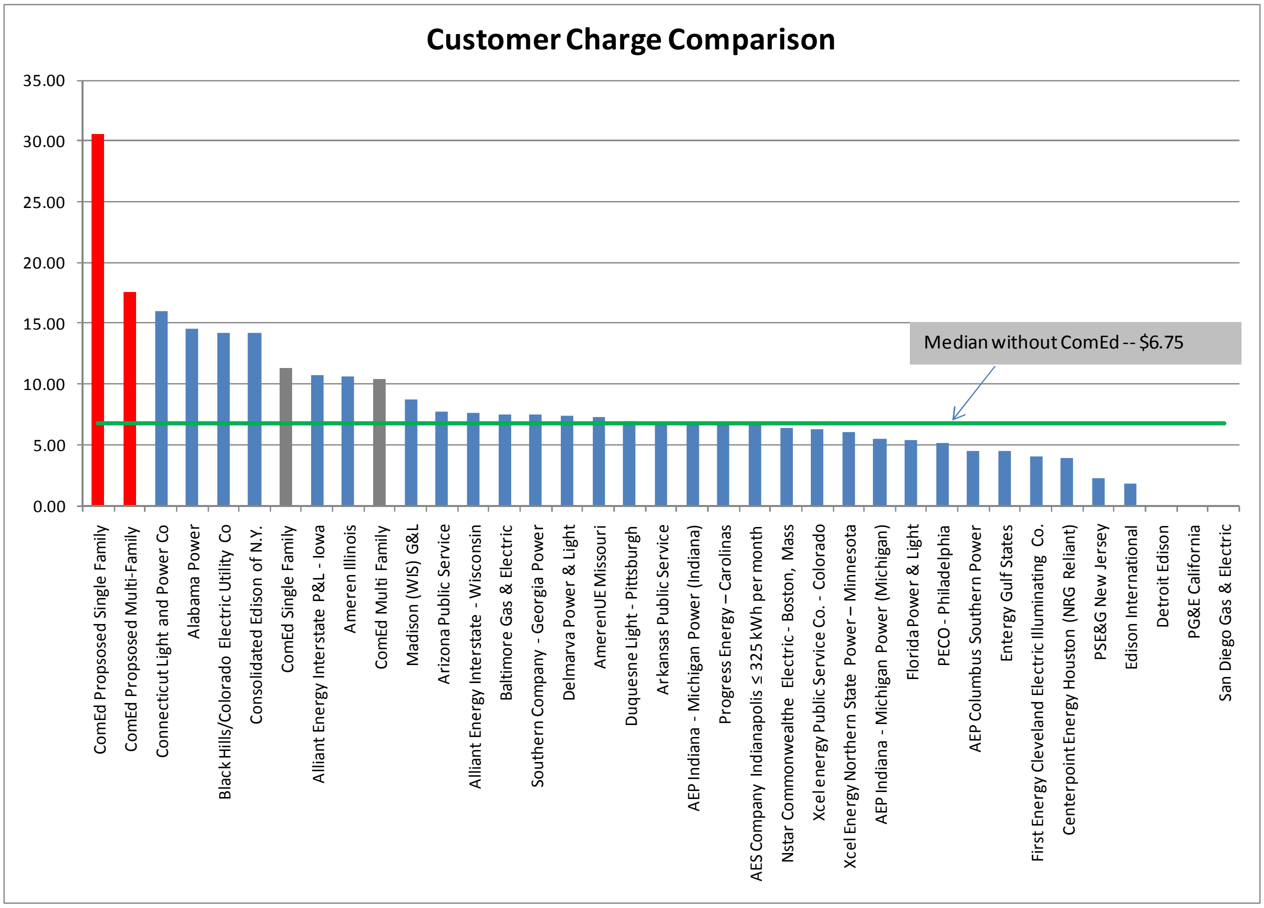
The Commission noted the importance of energy efficiency in ComEd’s last rate case – Docket 07-0566. In its Order in that case, the Commission stated

> The City argues that imposing costs on customers who use less energy is, at best, inconsistent with the General Assembly’s mandate that reducing energy use is a vital policy objective of the State.
>
> The Commission agrees. Customer costs are about 20% of the total cost of service. Because the allocation of customer billing costs, data management costs, installation costs, service drops, and customer information costs are assigned on the number of customers, residential customers currently pay 80% of them. These costs should be attributed as far as is practical to the cost causers. The record does not clearly establish that the costs identified by the City are necessarily related to usage.

Docket 07-0566 Order at 211.

Yet, the Proposed Order adopts a rate design that would have the opposite effect; a rate design that discourages residential customers from investing in energy efficiency measures. For this reason alone, the Proposed Order’s SFV rate design conclusion should be rejected.

The unfairness of ComEd’s proposed SFV rate design is demonstrated by Mr. Bodmer’s analysis of ComEd’s current customer charge, its proposed customer charge under the SFV proposal, and the customer charges of the utilities that ComEd used in an analysis of customer charges it did in Docket 08-0532, the rate design investigation case (the Rate Design Investigation). The graph showing Mr. Bodmer's analysis is reproduced below.



City Ex. 1.0 at 8, LL 157-59. Mr. Bodmer explained that ComEd's current customer charge is already high compared to other utilities: "its single family charge is 68% above the median and its multi-family charge is 55% above the median." *Id.* at 7, LL 148-50. Mr. Bodmer's graph shows how drastic ComEd's SFV proposal is. Mr. Bodmer explained that his graph shows that if ComEd's SFV proposal

> were to be accepted by the Commission, ComEd's single family charges would be 4.5 times the industry median and its multi-family charges would be 2.6 times the median of the other utility companies. Indeed, the single family charge would be about double the charge for the utility with the next-highest charge.

Id. at 7, LL 152-56. The fact that the customer charge does not vary with usage explains why low-use customers will bear the brunt of ComEd's proposal.

The City understands that the Proposed Order adopts a modified version of ComEd's proposed SFV rate design for residential and non-residential watt-hour delivery service customers. ComEd Ex. 16.0 (2nd Rev.) at 10, LL 217-22. ComEd suggests a phase-in proposal whereby 60% of revenue recovered from the residential classes and the watt-hour class would be recovered through the customer charge component of the bill beginning in August 2010. The percentage of revenues recovered through the customer charge would increase to 70% in June, 2011 and 80% in June, 2012. *Id*. at 10, LL 225-27; Table D1. The Proposed Order adopts a variation of ComEd's SFV proposal, concluding that "the Commission concludes that the use of volumetric charges be reduced so that they recover 50% of fixed delivery service costs." Proposed Order at 218. The Proposed Order goes on to say that whether additional revenues should be recovered through the customer charge can be addressed in future cases. *Id*.

That last statement highlights one of the many major concerns about the Proposed Order's conclusion. There is little doubt that ComEd – and perhaps other utilities – will cite to the Proposed Order's conclusion and supporting rationale to press for full adoption of its SFV proposal in future rate cases. If the Commission were to adopt the Proposed Order's conclusion and reasoning in this case and then approve efforts to expand the SFV rate design in future cases, the numerous problems of the proposal highlighted throughout the record would be fully brought to bear.

Mr. Bodmer explained why it is in ComEd's interest to promote a SFV rate design. As alluded to earlier, no matter what economic jargon ComEd may throw out to try to justify its radical proposal, the much more likely reason for the utility's embrace of a SFV rate design is that it would benefit it in two ways. He explained that "First, it allows utility companies to lower [their] cost of capital by reducing cash flow volatility that comes from variability in sales volumes. Second, by cutting incentives to conserve electricity, it promotes demand growth …." City Ex. 1.0 at 4, LL 62-64. Mr. Bodmer noted that ComEd witness Hemphill confirmed the first point in Docket 08-0532, the Rate Design Investigation. Discussing why low customer charges have "undesirable effects," Dr. Hemphill said that the "[f]oremost [problem with low customer charges] is the resulting ***destabilization of utility revenues*** and utility cost recovery, which ultimately has an impact on all other customers on the ComEd system." *Id*. at 30, LL 577-81, *quoting*, *ICC v. Commonwealth Edison Company,* I.C.C. Docket 08-0532, ComEd Ex. 4.0 at 14, LL 305-308 (emphasis added). The obvious converse of Dr. Hemphill's statement from the rate Design Investigation case is that high customer charges ***stabilize utility revenues.***

For these reasons, the "Commission Analysis and Conclusion" section of the Proposed Order's discussion of ComEd's SFV rate design proposal should be deleted. The following language should be inserted in its place.

> The Commission rejects ComEd's SFV proposal for numerous reasons. First, ComEd's proposal would be a radical change from the way the Commission has set rates since the advent of the transition to competition brought about by the 1997 amendments to the Act. Since that time, the Commission has set rates based on embedded costs. Although ComEd claims it is not true, its SFV proposal would set rates based on short-run marginal costs, a rate design method that was repudiated decades ago. Merely saying that its proposal is not based on short-run marginal costs does not make it so.

The Commission also finds that City witness Bodmer's and Staff witness Boggs's testimony shows that, if adopted, ComEd's proposal would fall heaviest on low-use customers. By significantly increasing the customer charge, which does not vary with usage, the SFV proposal would mean that a small bungalow in Chicago would pay a similar bill for electricity as a large mansion in Lake Forest. Such a result defies reality. It is obvious that these two disparate customers impose different costs on ComEd's system. Chicago bungalows are practically stacked on top of each other, are fed by an overhead line, and use a relatively small amount of electricity. Large homes in Lake Forest and other areas of ComEd's service area are located much farther apart, are served by underground lines, and use far greater amounts of electricity. ComEd's SFV proposal would pretend that these important differences do not exist. The Commission will not ignore these differences.

Unfairly imposing additional costs on low-use customers is inconsistent with a finding the Commission made in ComEd's last rate case, Docket 07-0566. There, the Commission agreed with the City's argument that "imposing costs on customers who use less energy is, at best, inconsistent with the General Assembly's mandate that reducing energy use is a vital policy objective of the State." Docket 07-0566, Order at 211. The SFV proposal would lead to this undesired result if it were adopted here.

The Commission also finds that ComEd's SFV proposal would deter investment in energy efficiency measures. While it is true that the rule-of-thumb for analyzing customers' bills is that the delivery services portion represents one-third of the bill and the commodity portion makes up the other two-thirds, that does not mean that increasing the customer charge or fixed portion of customers' bills will not deter investments in energy efficiency measures. Indeed, the evidence is overwhelmingly to the contrary.

Several witnesses testified that the SFV proposal would discourage customers from investing in energy efficiency measures. *See, e.g.*, Staff Ex. 13.0 at 18, LL 345-46; City Ex. 1.0 at 35-36, LL 682-91; AG-CUB Ex. 6.0 at 41, LL 838-41; NRDC Ex. 2.0 at 10-11, LL 205-13. The reason for this is straightforward. As Staff witness Christopher L. Boggs explained "When charges which are based on usage comprise a larger portion of a customer's monthly bill, it increases the incentive for a customer to keep his or her electricity costs down by curtailing usage. If a larger portion of a customer's monthly bill is fixed, this limits the ability of a customer to reduce his or her bill by using less." Staff Ex. 13.0 at 18, LL 346-50.

Because adoption of the SFV rate design would deter energy efficiency investments, it contravenes the General Assembly's unequivocal embrace and promotion of energy efficiency and demand response resources. As the Commission knows, the General Assembly has enacted legislation establishing energy efficiency portfolio standards (EEPS) for both electric and gas utilities. *See*, 220 ILCS 5/8-103; 5/8-104. In creating EEPS's for electric utilities, the General Assembly made clear that "It is the policy of the State that electric utilities are required to use cost-effective energy efficiency and demand-response measures to reduce delivery load." 220 ILCS 5/8-103(a); *see also*, 220 ILCS 5/8-104(a) ("It is the policy of the State that natural gas utilities and the Department of Commerce and Economic Opportunity are required to use cost-effective energy efficiency measures to reduce direct and indirect costs to consumers."). The General Assembly further stated that "Requiring investment in cost-effective energy efficiency and demand-response measures will reduce direct and indirect costs to consumers by decreasing environmental impacts and by avoiding or delaying the need for new generation, transmission, and distribution infrastructure." 220 ILCS 5/8-103(a).

For these and other reasons, the Commission declines to adopt ComEd's SFV rate design. Instead, the Commission is persuaded that AG witness Rubin's suggested residential rate design should be approved. The Commission finds that Mr. Rubin's rate design is fair and equitable. The Commission also finds that Mr. Rubin's rate design ensures: (1) the recovery of ComEd's cost of service; (2) equitable rate treatment for the utility's heating and non-heating residential customers of all usage levels; and (3) the elimination of cross-subsidies between the heating and non-heating classes. In addition, the AG/CUB rate design produces rates that retain a price signal that incentivizes conservation and ensures that costs are traced to cost causers – goals that have been embraced by the Commission in prior rate orders.

EXCEPTION # 2 – THE PROPOSED ORDER'S CONCLUSIONS REGARDING RATES FOR DUSK-TO-DAWN STREET LIGHTING CUSTOMERS SHOULD BE MODIFIED IN ONE RESPECT. (SECTION VIII. F. 2.D. OF THE COMMON BRIEF OUTLINE)

At pages 264-265, the Proposed Order addresses issues concerning the rates for dusk-to-dawn street lighting customers. The City commends the ALJs for their excellent analysis of what are difficult and often tedious matters. The City agrees with each conclusion in the Proposed Order except one. In particular, with respect to the cost of wire that should be included in rates for dusk-to-dawn street lighting customers, the Proposed Order states

> ComEd also argues that Mr. Bodmer's calculations as to the cost of the wire that is used to connect City of Chicago facilities to ComEd's system is inaccurate. Because the evidence indicates that Chicago employees make these pertinent connections, there really is no evidence here that the wire that City of Chicago employees install is actually supplied by ComEd. Absent affirmative evidence that ComEd provides this wire to the City, we decline to conclude that ComEd pays for this wire, as, it is illogical to assume that a party that does not install wire pays for it. We therefore disallow any cost of wire regarding this issue.

Proposed Order at 265. While the City understands the logic of the Proposed Order's conclusion, the conclusion is not consistent with the record. ComEd Exhibit 16 depicts the manner in which the City's street lighting system connects to ComEd's system. The Proposed Order correctly finds that the utility's assertion in ComEd Exhibit 16.6 that it makes the connection between the City's system and ComEd's system is not supported by the record. *Id*. at 264-65. Mr. Bodmer's discussion with City engineers demonstrated that it is City employees and contractors, not ComEd, that makes the connection. City Ex. 1.0 at 46-47, LL 905-20.

However, ComEd Exhibit 16.6 is accurate that both the City and ComEd provide wire to the junction box where City employees and contractors make the connections. At issue is the cost of the ComEd wire on the ComEd side of the junction box. The Proposed Order should be modified to include Mr. Bodmer's recommended cost of ComEd wire.

In the Rate Design Investigation case, Mr. Bodmer assumed that the cost of wire was $1.82 per foot. *Id*. at 54, LL 1071-75. For this case, using the same approach with updated data, Mr. Bodmer assumed that the cost of wire was $1.78 per foot. *Id*. at 54, LL 1074-75. Mr. Bodmer explained that he derived his number from a combination of primary and secondary wire in the City because of the odd circumstance that the cost of secondary wire in the City is higher than the cost of primary wire. *Id*. at 54, LL 1071-74.

ComEd assumed a cost of wire of $3.05 per foot, an amount significantly higher than Mr. Bodmer's number. *Id*. at 54, LL 1076-77. Mr. Bodmer testified that ComEd's number was so much higher because of one entry in USOA Account 365. In particular, the "Other" entry for secondary wire in the Account 365 is $6.69 per foot. *Id*. at 1077-79. Mr. Bodmer argued that ComEd's number was skewed because of the $6.69 figure, a clear outlier in USOA Account 365. *Id*. at 54-55, LL 1077-83. Mr. Bodmer included a table in his testimony that showed the cost of wire with and without the very expensive wire from the "Other" entry in Account 365. *Id*. at 55, LL 1084-86. The table is reproduced below.

Overhead Cost of Wire in Account 365 per Foot		
	With "Other" Account	Without "Other" Account
Total Primary and Secondary in City	1.78	1.11
Secondary in City	3.05	0.95
Total Primary and Secondary for System	1.24	1.17
Secondary for System	2.45	2.05

Id. at 55, LL 1084-86.

To reflect this change, the first full paragraph on page 265 of the Proposed Order should be modified as shown below.

> ComEd also argues that Mr. Bodmer's calculations as to the cost of the wire that is used to connect City of Chicago facilities to ComEd's system is inaccurate. ~~Because the evidence indicates that Chicago employees make these pertinent connections, there really is no evidence here that the wire that City of Chicago employees install is actually supplied by ComEd. Absent affirmative evidence that ComEd provides this wire to the City, we decline to conclude that ComEd pays for this wire, as, it is illogical to assume that a party that does not install wire pays for it. We therefore disallow any cost of wire regarding this issue.~~ The Commission agrees with Mr. Bodmer's testimony that ComEd's estimate for the cost of its wire is distorted. In particular, the Commission finds that ComEd's number is overstated because of the "Other" entry of $6.69 per foot in the Account 365. The Commission finds that Mr. Bodmer's $1.78 per foot estimate is supported by the record and will be used in calculating rates for dusk-to-dawn street lighting customers.

CONCLUSION

For the reasons discussed in its Brief on Exceptions, the City of Chicago respectfully requests that the Administrative Law Judges' Proposed Order be modified as described herein.

Dated: April 11, 2011

Respectfully submitted,

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